

Memorandum



942.3
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DATE: October 21, 1986

TO: Randall W. Hardy

FROM: Lynn Davison *LD/cd*

*Contract
signed 10/23/86*

SUBJECT: Approval of Fire Department Chemist Contract for LUSP PCBs

Attached is a small (\$1,620.00) Consulting Contract for Denis Sapiro (Karden Associates), a chemist who advised the Fire Department during our recent trip to Canton to view the Sunohio process. You will recall the necessity of making the second Fire Department trip (with this added expertise) in order to do business with Sunohio at all, thereby meeting the Council's policy preference of on-site chemical decontamination. You will also recall the extreme urgency due to the need to complete PCB cleanup by April 1, 1987. Mr. Sapiro was exceedingly well qualified and available on less than a day's notice to make the trip with us. Accordingly, on September 22, Tim Croll met with Mr. Sapiro, negotiated a fee and authorized him to join the Seattle delegation.

Mr. Sapiro's advice was invaluable in helping the Fire Department frame permit conditions that were protective yet flexible enough for the project to proceed. It is not an exaggeration to say that if Mr. Sapiro had not accompanied us on that trip at that time, City Light would now be arranging for off-site incineration of the Lake Union Steam Plant Oil.

We are going into this detail with you to explain why we are in the unusual situation of presenting you with an "after the fact" contract. We hope you will approve this so we can pay Mr. Sapiro. Human Rights has informed us that, under the circumstances, all they would require was notification after we executed the contract.

Budget information is B.I. 31, P.E. 3290, W.O. #70469-02. Please call me (x3691) or Tim Croll (x3105) if you have questions.

TC:jf

cc: Jimenez
Brazel
Stockinger
Lew
Croll
Tenney
EAD 942.3
File

CONSULTING SERVICE CONTRACT
for PCB Processing Unit Safety Analysis
Executed By
The City of Seattle, City Light Department
and
Karden Associates, Inc.

CTY0068869

SEA315283

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THIS CONTRACT is made and entered into this 23rd day of October 1986, by and between the City of Seattle, City Light Department, a municipal corporation organized and existing under the laws of the State of Washington (hereinafter referred to as "City Light"), and Karden Associates, Inc., a corporation organized existing under the laws of the State of Washington (hereinafter referred to as the "Consultant");
WITNESSETH THAT:

WHEREAS, City Light possesses 820,000 gallons of fuel oil contaminated with Polychlorinated Biphenyl (PCB), and

WHEREAS, City Light has an Environmental Protection Agency (EPA) deadline of April 1, 1987 to dispose of the PCB's, and

WHEREAS, City Light faces EPA fines of up to \$25,000/day if the deadline is not met, and

WHEREAS, the City Council approved Ordinance No. 112692, with the Mayor concurring, which selected chemical decontamination as the preferred method of PCB disposal, and

WHEREAS, the City has selected Sunohio, Inc. of Ohio to perform the chemical decontamination, and

WHEREAS, the Sunohio PCBX process uses hazardous materials which require a Fire Department permit, and

WHEREAS, the Fire Marshall required a visit to a PCBX unit with the assistance of a chemical safety expert in order to consider the permit, and

WHEREAS, the visit had to happen immediately to maintain the PCB destruction schedule, and

WHEREAS, the Consultant has an outstanding background and experience in this area and was available on an eight-hour notice to fly to Canton, Ohio, and

WHEREAS, City Light and the Fire Department now require a formal report from the Consultant,

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made a part hereof, the parties hereto agree as follows:

1. DESCRIPTION OF WORK

The Consultant shall furnish all services and labor necessary to conduct and complete work as defined below under scope of work and shall deliver to the City a final report.

II. SCOPE OF WORK

The Consultant has provided his analysis and recommendations related to safety of the Sunohio Corporation's PCBX unit, based on the Consultant's previous examination of the unit on September 23, 1986.

III. TIME OF PERFORMANCE

The term of this contract shall commence upon the date of execution by the Superintendent of City Light, or his designee, and will terminate on October 31, 1986, or when the maximum amount of this contract is reached, whichever occurs first.

The Consultant began work on the services listed in Section I above based upon directions from City Light to proceed.

Established completion times shall not be extended because of any unwarranted delays for which the Consultant is responsible, but may be extended by City Light because of delays caused by governmental action or other conditions beyond the control of the Consultant.

During the progress of the Consultant's work, the Consultant may adjust the work force to meet the schedule; but time adjustments may be made only upon prior written approval by City Light.

Delays grossly affecting the completion of the work within the time specified for the completion, attributable to any cause by the parties hereto, shall be considered as cause for the termination of this contract by the other party.

Work under this contract shall, at all times, be subject to the general review and examination of City Light and shall be subject to its approval. The Consultant shall periodically during the progress of the work confer with City Light and shall be subject to the direct administration of City Light, and shall prepare and present such information and materials (e.g., a detailed outline of completed work) as may be pertinent, necessary, or requested by City Light to determine the adequacy of the work as it progresses or to determine the Consultant's progress.

The Consultant's work shall be considered complete when City Light acknowledges in writing the receipt of all documents which are required to be furnished City Light under this contract.

IV. PAYMENT

A. Compensation

The maximum amount to be paid for all of the services provided under this contract, including reimbursements, shall not exceed One Thousand Six Hundred and Twenty Dollars (\$1,620) and is subject to the continuing appropriation authority of the Seattle City Council. Seattle City Light has been billed directly for airfare in the amount of \$510.00. This is included in the total contract amount; the amount due the Consultant will be \$1,110. It is understood by the Consultant that there is no guarantee of a minimum amount of work or compensation under this contract.

A single payment to the Consultant by City Light shall be made upon receipt of an invoice from the Consultant.

B. Manner of Payment

The Consultant shall submit a single properly executed invoice for services rendered, and any performance report required by Section I of this contract, to the City Light Department, 1015 - 3rd Ave., Seattle, WA 98104. Such invoice shall be signed by the officer or officers executing this contract on behalf of the Consultant. The City Light Department will initiate authorization for payment after receipt and approval of such correct invoice and report and will make payment directly to the Consultant. Payment upon approved invoices shall be within 15 days of signed contract.

A properly executed invoice shall disclose the billable hours, the hourly rate of \$85/hour, and total fees. The invoice shall include authorized associated costs incurred in providing the services under this contract, for which reimbursement is sought.

C. Consultant's Records

The Consultant shall keep complete and accurate time records with respect to all salaries paid, as well as complete and accurate records of all other reimbursable costs and expenses, for purposes of audit and proper allocation of expenses to this project. These records shall be made available for inspection by representatives of the City for a period of three years following final payment to the Consultant.

V. CONSULTANT REGISTRATION

The Consultant agrees to complete registration with the Department of Revenue, General Administration Building, Olympia, Washington 98504, and/or with the Secretary of State, Olympia, Washington

licenses, permits, and similar legal authorizations, and comply with all requirements thereof.

The Consultant shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this contract; taxes levied on its property, equipment, and improvements; and taxes on the Consultant's interest in this contract and any leasehold interest deemed to have been created thereby under CH 82.29A RCW.

The Consultant further agrees to be in compliance with Chapter 5.44 of the Seattle Municipal Code which contains the City of Seattle general business tax and license laws.

VI. ADDITIONAL WORK

City Light may desire to have the Consultant perform work or render services in connection with the project other than provided for by the express intent of this contract. This will be considered as additional work, supplemental to this contract. Work under additional work shall not proceed unless so authorized in writing by City Light. Authorized additional work will be compensated for in accordance with a written supplemental contract between the Consultant and City Light.

VII. EMPLOYMENT

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract; and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other considerations contingent upon or resulting from the award or making of this contract.

For breach or violation of this warranty, City Light will have the right to annul this contract without liability; or, in its discretion, to deduct from the contract price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the Consultant or other persons, while engaged in the performance of any work or services required by the Consultant under this contract, shall be considered employees of the Consultant only and not of City Light; and any and all claims made by any third party as a consequence of any act or omission on the part of the Consultant's employees or other persons, while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the Consultant.

The Consultant shall not engage on a full- or part-time basis, or other basis during the period of the contract, any professional or technical personnel who are or have been at any time during the period of the contract employees of City Light, except retired employees, without written consent of City Light.

VIII. CONTRACTUAL RELATIONSHIP

This contract does not constitute the Consultant as the agent or legal representative of the City for any purpose whatsoever. The Consultant is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the City or to bind the City in any manner or thing whatsoever.

IX. UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS

- A. References: The provisions of Public Law 95-507, also known as 15 USC 637 and Federal Executive Order 12138, and Section 2 of City of Seattle Ordinance 111537, Seattle Municipal Code 20.46.060-A-6, are hereby incorporated by reference and made a part hereof as if fully set forth herein.
- B. Utilization Levels: For contracts in excess of \$10,000 and inasmuch as City Light is subject to federally mandated small business and disadvantaged business utilization requirements, during the term of this agreement the Consultant (with the exception of small business concerns) shall endeavor in good faith to:
 - 1. Utilize both small business enterprises ("SBEs") and small disadvantaged business enterprises ("SDBEs");
 - 2. Continue to make every effort to utilize SBEs and SDBEs;
 - 3. Adopt a subcontracting plan similar to City Light's plan (in accordance with the requirements of Public Law 95-507, 15 USC 637), in the case of any consultant (except small business concerns) who receives a contract of \$500,000 or more, including amendments, and which offers further subcontracting opportunities; and
 - 4. Maintain records reasonably necessary for monitoring compliance with the provisions of the City Light Subcontracting Plan and Ordinance 111537, as amended.
- C. Definitions: As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small

business concern owned and controlled by socially and economically disadvantaged individuals," or "small disadvantaged business concern," shall mean a small business concern:

1. which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
2. whose management and daily business operations are controlled by one or more of such individuals.

City Light shall consider that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

X. AFFIRMATIVE ACTION

During the performance of this contract, the Consultant, for itself, its assignees and successors in interest, agrees as follows:

A. Nondiscrimination

The Consultant shall comply with Seattle Ordinance 109116, hereafter referred to as the "Fair Employment Practices Ordinance"; Ordinance 109113, as amended by Ordinance 109869, hereinafter referred to as "Minority Business Utilization Ordinance"; and Ordinance 101432, Section 3.1, paragraphs 1 through 5, as amended by Ordinance 109808, as follows:

1. During the performance of this contract, the Consultant agrees as follows:

"The Consultant will not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, age, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, age, national origin, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: employment, upgrading,

demotion, or transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause."

2. "The Consultant will, prior to commencement and during the term of this contract, furnish to the Director of Human Rights (as used herein Director means the Director of the Human Rights Department or his/her designee) upon his/her request and on such form as may be provided by the Director therefor, a report of the affirmative action taken by the Consultant in implementing the terms of these provisions, and will permit access to his/her records of employment, employment advertisements, application forms, other pertinent data and records requested by the Director for the purpose of investigation to determine compliance with this provision."
3. "If, upon investigation, the Director finds probable cause to believe that the Consultant has failed to comply with any of the terms of these provisions, the Consultant and the contracting authority shall be so notified in writing. The contracting authority shall give the Consultant an opportunity to be heard, after ten days notice. If the contracting authority concurs in the findings of the Director, it may suspend the contract and/or withhold any funds due or to become due to the Consultant, pending compliance by the Consultant with the terms of these provisions."
4. "Failure to comply with any of the terms of these provisions shall be a material breach of this contract."
5. "The foregoing provisions will be inserted in all subcontracts for work covered by this contract."

The Consultant, with regard to the work performed by it after award and prior to completion of this contract, shall not discriminate on the grounds of race, religion, creed, color, sex, age, marital status, sexual orientation, political ideology, ancestry, or national origin, or the presence of any mental, physical, or sensory handicap in the selection and retention of subcontractors, including, but not limited to, procurement of materials and leases of equipment. The above identified Ordinances, 109116, 109113, 109869, and 101432, as amended by Ordinance 109808, are herein incorporated by this reference and made a part of the contract. The Consultant's failure to comply with any requirement of these ordinances shall be a material breach of contract.

B. Women's and Minority Business Enterprise Utilization

1. Reference: The provisions of Seattle Municipal Code 20.46 (Women's and Minority Business Enterprise Utilization Ordinance) are hereby incorporated by reference and made a part hereof as if fully set forth herein.

2. Compliance: During the term of this agreement, the Consultant shall:

a. Utilize both minority business enterprises ("MBEs") and women's business enterprises ("WBEs") at least to the extent specified below:

MBE - 0 percent WBE - 0 percent

of the Consultant's total compensation and expense reimbursement provided under this agreement. Any failure to meet these commitments will be considered a material breach of contract, and may result in one or more of the following actions:

- (1) suspension of the contract;
- (2) withholding of funds;
- (3) rescission of the contract; and
- (4) disqualification of the Consultant from eligibility for providing services to the City for a period of not to exceed two (2) years;

b. Continue to make every effort to utilize MBEs and WBEs;

c. Require every subcontractor utilized by the Consultant for work under this agreement to make every effort to utilize WBEs and MBEs; and

d. Maintain records reasonably necessary for monitoring compliance with the provisions of Ordinance 109113, as amended.

The Consultant shall notify City Light of any proposed changes in the WBEs or MBEs projected for use on the WMBE Information and Utilization Commitment form for this agreement. City Light shall request the Human Rights Department to verify that any WBE or MBE firm projected for use is certified by the Director of the Human Rights Department and that the dollar value of the WBE and MBE participation equals or exceeds the set aside required for this agreement.

In the event this agreement is modified such that the total dollar value of this agreement is increased by more than 10 percent, the Consultant shall maintain the same percentage

level of WBE and MBE utilization as committed to in the original agreement or that which is required by the provisions of Seattle Municipal Code 20.46.

Inasmuch as the Seattle Human Rights Department is authorized and empowered by Seattle Municipal Code 20.46 to monitor compliance with the Consultant's women's and minority business enterprise utilization commitment during the term of this agreement, the Consultant shall furnish to such Department within a reasonable time after a request has been made for the same, whatever reports or other information is reasonably necessary to determine compliance.

C. Information and Reports

The Consultant shall provide all information and reports required by the ordinances and regulations promulgated under the authority of said ordinances and shall permit access to its books, records, accounts, other sources of information, and its facilities, as may be determined by City Light to be pertinent to ascertain compliance with such ordinance rules and regulations. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to City Light and shall set forth what efforts it has made to obtain the information.

D. Sanctions for Noncompliance

In the event of the Consultant's noncompliance with the nondiscrimination provision of this contract, City Light may impose such contract sanctions as it determines to be appropriate, including, but not limited to:

1. Withholding payments to the Consultant under the contract until the Consultant complies; and/or
2. Cancellation, termination, or suspension of the contract in whole or in part.

E. Incorporation of Provisions

The Consultant shall include the provisions of paragraphs A through C of this section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the ordinances or rules and regulations issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as City Light may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in or is threatened with litigation by a subcontractor or supplier as a result of such

direction, the Consultant may request City Light to enter into such litigation to protect the interests of City Light.

XI. TERMINATION OF CONTRACT

A. Termination of Contract for Cause

If through any cause the Consultant shall fail to fulfill in a timely and proper manner its obligations under this contract, or if the Consultant shall violate any of the covenants, agreements, assurances, or stipulations of the contract, City Light will have the right to terminate this contract by giving written notice to the Consultant of such termination, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, and reports prepared pursuant to this contract by the Consultant shall become the property of City Light. The Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and materials prior to the date of termination. Notwithstanding the above, the Consultant shall not be relieved of liability to City Light for damage to City Light by virtue of any breach of the contract by the Consultant until such time as the exact amount of damages due City Light from the Consultant is determined.

B. Termination for Convenience of City Light

City Light may terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof at least ten (10) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described above shall become City Light's property. If the contract is terminated by City Light as provided herein, the Consultant will be paid an amount which bears the same ratio to the total services of the Consultant as covered by this contract.

C. Termination for Reasons Beyond Control of Parties

Either party may terminate this contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as but not limited to acts of nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.

XII. OWNERSHIP OF DOCUMENTS

All original drawings, prints, plans, field notes, and other related documents prepared or obtained under the terms of this contract, shall become the property of City Light. Any invention, improvement or discovery, together with all information, designs, specifications data, patent rights, and findings in connection with the performance of this contract or any subcontract hereunder, shall be the property of City Light.

XIII. AUDIT

The Consultant shall permit City Light, from time-to-time as the City Comptroller or the Superintendent of City Light deems necessary (including after the expiration or termination of this contract), to inspect and audit at any and all reasonable times in King County, Washington, or at such other reasonable location as the City Comptroller selects, all pertinent books and records of the Consultant and any subconsultants or other person or entity that has performed work in connection with or related to the Consultant's services under this contract to verify the accuracy of accounting records including trust accounts; and shall supply City Light with, or shall permit City Light to make, a copy of any books and records and any portion thereof upon the City Comptroller's or Superintendent of City Light's request. The Consultant shall ensure that such inspection, audit, and copying right of City Light is a condition of any subcontract, agreement, or other arrangement under which any other person or entity is permitted to perform work in connection with or related to the Consultant's services under this contract.

XIV. CONFIDENTIALITY

The Consultant shall instruct its employees to hold and maintain as confidential all information concerning its study findings and recommendations, the business of City Light, its relations with its clientele and its employees, as well as any other information which may be specifically classified by City Light in writing to the Consultant, in the same manner as City Light will hold and maintain that which the Consultant regards as confidential. The Consultant shall have an appropriate agreement with its employees to that effect; provided, however, that the foregoing shall not apply to:

1. Information which City Light has released in writing from being maintained in confidence;
2. Information which, at the time of disclosure, is in the public domain by having been printed and published and available to the public libraries or other public places where such data is usually collected.

XV. SUBCONSULTANT

- A. The Consultant shall not sublet or assign any of the work or responsibilities covered by this contract without prior written approval of City Light.
- B. The Consultant shall fully cooperate with such subconsultants as City Light may authorize in accordance with this contract. The Consultant shall not commit or permit any act which will interfere with the performance of work by any subconsultant.
- C. In the event a subconsultant is required and approved by City Light, the Consultant is required to make every good faith effort to subcontract to women and minority consultants and/or business enterprises.

XVI. STRICT COMPLIANCE REQUIRED

Strict compliance with the terms of this contract is essential for the legal disbursement of public funds for the purposes described herein. Deviation by the Consultant from any of the terms contained in this contract must be formally authorized in writing. No other authority for deviation from the contract will be recognized as proper and official.

XVII. LEGAL RELATIONS

A. Compliance with Laws

The Consultant, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter, Municipal Code, and ordinances of the City of Seattle; and rules, regulations, orders, and directives of the City Light Department applicable to the work to be done under this contract.

B. Applicable Law; Venue

This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court of King County.

C. Indemnification

The Consultant hereby agrees to save harmless and defend City Light from all claims and liability due to the negligent acts, errors, or omissions of the Consultant, its agents, and/or employees in performing the work required by this agreement. City Light shall not be obligated or liable to the Consultant or to any other party for any claim whatsoever arising in connection with this agreement, except for negligence that is

solely and entirely the fault of City Light. The indemnification provided for in this section with respect to any acts or omissions during the term of this agreement shall survive any termination or expiration of this agreement.

XVIII. PROFESSIONAL RESPONSIBILITY

The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in the Consultant's designs, drawings, specifications, and/or other services immediately upon notification by City Light.

XIX. NO WAIVER

Neither City Light's review, approval or acceptance of, nor payment for any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract; and the Consultant shall be and remain liable to City Light in accordance with applicable law for all damages to City Light caused by the Consultant's negligent performance of any of the services furnished under this contract.

XX. RIGHTS CUMULATIVE

Rights under this contract are cumulative; the failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. The use of one remedy shall not be taken to exclude or waive the right to use another. Further, the rights and remedies of City Light provided for under this contract are in addition to any other rights and remedies provided by law.

XXI. ENDORSEMENT

The Consultant shall place its endorsement on all documents furnished to City Light, including invoice billings and correspondence, unless otherwise authorized by City Light; and shall prepare and present such information and materials as may be pertinent, necessary, or as may be requested by City Light to determine the adequacy of the work as it progresses.

XXII. VALIDITY OF CONTRACT

In the event any section, sentence, clause or phrase of this contract shall be adjudicated by a court of last resort and of competent jurisdiction to be invalid or illegal, the remainder of this contract shall be unaffected by such adjudication; and all other provisions of this contract shall remain in full force and effect as though the section, sentence, clause, or phrase so adjudicated to be invalid had not been included herein.

XXIII. NOTICES AND COMPUTATION OF TIME

Any notice or demand by City Light under this contract to the Consultant shall be in writing and shall be deemed properly given if mailed, postage prepaid and addressed, to: Denis Sapiro, 3241-44th Ave. S.W., Seattle, WA 98116. Any notice or demand by the Consultant to City Light under this contract shall be in writing and shall be deemed properly given if mailed, postage prepaid and addressed, to the Superintendent of City Light, City Light Department, 1015 - 3rd Ave., Seattle, WA 98104, Attention: Timothy Croll, Rm. 922. In computing any period of time for such notice, such period shall commence at 12:00 midnight of the date mailed. The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by any party by giving notice.

XXIV. AMENDMENTS

If either party to this contract desires a change in the duties or time schedule specified in the contract, the party requesting the change shall make such request in writing; and the change, if adopted, shall be the subject of a separate written agreement.

XXV. DISPUTES

Any disputes concerning the Consultant's performance of this contract, which are not disposed of by agreement between the Consultant and City Light, shall be referred to the Superintendent of City Light. The Superintendent of City Light shall have the sole responsibility for making the final decision regarding this dispute.

XXVI. NONWAIVER

Failure of City Light to insist upon strict performance of, or City Light's waiver of, any of the terms, conditions or obligations of this contract shall not be deemed a waiver of any other term, condition, covenant or obligation, or of any subsequent default or breach of the same or any other term, condition, covenant or obligation contained herein.

XXVII. INTEGRATED DOCUMENT

This contract embodies the entire agreement, terms and conditions between City Light and the Consultant. No oral agreements or conversation between any officer, agent or employee of City Light and any officer, agent or employee of the Consultant prior to the execution of this contract shall affect or modify any of the terms or obligations contained in any documents comprising this contract. Any such oral agreement shall be considered as unofficial information and in no way binding upon either party.

XXVIII. PUBLICATIONS

The Consultant may publish the results of the services performed pursuant to this contract, but only with prior review and written authorization by City Light. All such publications must acknowledge that the program is afforded by funds provided by City Light.

XXIX. COPYRIGHTS

Consultant and City Light agree that all material produced pursuant to this contract is "work made for hire," and that City Light owns all of the rights comprised in the copyright. The Consultant shall place the following notice on all visually perceptible copies of materials produced pursuant to this contract:

1. "(C)," "Copyright," or "Copr.";
2. year of first publication; and
3. owner of copyright, "City of Seattle, City Light Department."

The notice shall be affixed to all copies of the material in such a manner and location as to give reasonable notice of the copyright. Except as permitted by this contract, the Consultant shall not use any of the material described above without the prior written approval of the Superintendent of City Light.

XXX. PATENTS

Any discovery or invention arising out of or developed in the course of work performed pursuant to this contract shall become the property of City Light. Whenever any discovery or invention is made or conceived by the Consultant, its employees, agents or subcontractors, in the course of work defined herein, the Consultant shall promptly furnish City Light with complete information thereon; and City Light shall have sole power to determine whether or not and in which countries and jurisdictions patent applications shall be filed, and to determine the disposition of the title to the rights in and to any invention or discovery and any patent applications and any patents that may result.

XXXI. ASSIGNMENT

Under the terms of this contract, Denis Sapiro is designated as the Consultant's principal and is authorized to exercise direction on this project on behalf of the Consultant.

An authorized agent shall act as a principal for City Light and shall be responsible for review and approval of all documents submitted by the Consultant in conjunction with this contract.


The Consultant may change its principal under this contract only with the prior written approval of City Light.

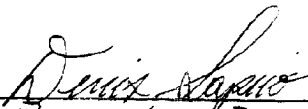
XXXII. EMPLOYEE STATUS

The Consultant and its employees, agents or members, shall not be considered employees of City Light, and the relationship of the Consultant to City Light by reason of this contract shall be that of an independent contractor.

THE CITY OF SEATTLE
CITY LIGHT DEPARTMENT

KARDEN ASSOCIATES, INC.

By 
Randall W. Hardy, Superintendent

By 
PRESIDENT - Denis Sapich

Date: 10/23/86

Date: 17 October 1986

91-1340641
IRS Tax Identification Number